

## Securities and Exchange Commission

## § 240.24b-2

company whether through ownership of securities, by contract or otherwise; *Provided, however*, That

(i) Any person who, directly or indirectly, (A) has the right to vote 10 percent or more of the voting securities, (B) is entitled to receive 10 percent or more of the net profits, or (C) is a director (or person occupying a similar status or performing similar functions) of a company shall be presumed to be a person who controls such company;

(ii) Any person not covered by paragraph (i) shall be presumed not to be a person who controls such company; and

(iii) Any presumption may be rebutted on an appropriate showing.

(g) Where it deems appropriate to do so, the Commission may determine whether to (1) direct, pursuant to section 6(c)(2), 15A(g)(2) or 17A(b)(4)(A) of the Act, that a proposed admission covered by a notice filed pursuant to paragraph (a) of this section shall be denied or an order barring a proposed association issued or (2) grant or deny an application filed pursuant to paragraph (d) of this section on the basis of the notice or application filed by the self-regulatory organization, the person subject to the disqualification, or other applicant (such as the proposed employer) on behalf of such person, without oral hearing. Any request for oral hearing or argument should be submitted with the notice or application.

(h) The Rules of Practice (17 CFR part 201) shall apply to proceedings under this rule to the extent that they are not inconsistent with this rule.

(15 U.S.C. 78a *et seq.*, as amended by Pub. L. 94-29 (June 4, 1975) and by Pub. L. 98-38 (June 6, 1983), particularly secs. 11A, 15, 19 and 23 thereof (15 U.S.C. 78k-1, 78o, 78s and 78w))

[46 FR 58661, Dec. 3, 1981, as amended at 48 FR 53691, Nov. 29, 1983]

### INSPECTION AND PUBLICATION OF INFORMATION FILED UNDER THE ACT

#### § 240.24b-1 Documents to be kept public by exchanges.

Upon action of the Commission granting an exchange's application for registration or exemption, the exchange shall make available to public inspection at its offices during reasonable office hours a copy of the statement and exhibits filed with the Com-

mission (including any amendments thereto) except those portions thereof to the disclosure of which the exchange shall have filed objection pursuant to § 240.24b-2 which objection shall not have been overruled by the Commission pursuant to section 24(b) of the Act.

(Sec. 24, 48 Stat. 901; 15 U.S.C. 78x)

CROSS REFERENCE: For regulations relating to registration and exemption of exchanges, see §§ 240.6a-1 to 240.6a-3.

[13 FR 8214, Dec. 22, 1948]

#### § 240.24b-2 Nondisclosure of information filed with the Commission and with any exchange.

##### PRELIMINARY NOTE

Confidential treatment requests shall be submitted in paper format only, whether or not the filer is required to submit a filing in electronic format.

(a) Any person filing any registration statement, report, application, statement, correspondence, notice or other document (herein referred to as the material filed) pursuant to the Act may make written objection to the public disclosure of any information contained therein in accordance with the procedure set forth below. The procedure provided in this rule shall be the exclusive means of requesting confidential treatment of information required to be filed under the Act.

(b) The person shall omit from material filed the portion thereof which it desires to keep undisclosed (hereinafter called the confidential portion). In lieu thereof, it shall indicate at the appropriate place in the material filed that the confidential portion has been so omitted and filed separately with the Commission. The person shall file with the copies of the material filed with the Commission:

(1) One copy of the confidential portion, marked "Confidential Treatment," of the material filed with the Commission. The copy shall contain an appropriate identification of the item or other requirement involved and, notwithstanding that the confidential portion does not constitute the whole of the answer, the entire answer thereto; except that in the case where the confidential portion is part of a financial statement or schedule, only the

particular financial statement or schedule need be included. The copy of the confidential portion shall be in the same form as the remainder of the material filed;

(2) An application making objection to the disclosure of the confidential portion. Such application shall be on a sheet or sheets separate from the confidential portion, and shall contain (i) an identification of the portion; (ii) a statement of the grounds of objection referring to, and containing an analysis of, the applicable exemption(s) from disclosure under the Commission's rules and regulations adopted under the Freedom of Information Act (17 CFR 200.80), and a justification of the period of time for which confidential treatment is sought; (iii) a written consent to the furnishing of the confidential portion to other government agencies, offices or bodies and to the Congress; and (iv) the name of each exchange, if any, with which the material is filed.

(3) The copy of the confidential portion and the application filed in accordance with this paragraph (b) shall be enclosed in a separate envelope marked "Confidential Treatment" and addressed to The Secretary, Securities and Exchange Commission, Washington, DC 20549.

(c) Pending a determination as to the objection filed the material for which confidential treatment has been applied will not be made available to the public.

(d)(1) If it is determined that the objection should be sustained, a notation to that effect will be made at the appropriate place in the material filed. Such a determination will not preclude reconsideration whenever appropriate, such as upon receipt of any subsequent request under the Freedom of Information Act (5 U.S.C. 552) and, if appropriate, revocation of the confidential status of all or a portion of the information in question. Where an initial determination has been made under this rule to sustain objections to disclosure, the Commission will attempt to give the person requesting confidential treatment advance notice, whenever possible, if confidential treatment is revoked.

(2) In any case where an objection to disclosure has been disallowed or where a prior grant of confidential treatment has been revoked, the person who requested such treatment will be so informed by registered or certified mail to the person or his agent for service. Pursuant to § 201.431 of this chapter, persons making objections to disclosure may petition the Commission for review of a determination by the Division disallowing objections or revoking confidential treatment.

(e) The confidential portion shall be made available to the public at the time and according to the conditions specified in paragraphs (d) (1) and (2) of this section:

(1) Upon the lapse of five days after the dispatch of notice by registered or certified mail of a determination disallowing an objection, if prior to the lapse of such five days the person shall not have communicated to the Secretary of the Commission his intention to seek review by the Commission under § 201.431 of this chapter of the determination made by the Division; or

(2) If such a petition for review shall have been filed under § 201.431 of this chapter, upon final disposition thereof adverse to the petitioner.

(f) If the confidential portion is made available to the public, one copy thereof shall be attached to each copy of the material filed with the Commission and with each exchange.

[41 FR 20578, May 19, 1976, as amended at 58 FR 14685, Mar. 18, 1993; 60 FR 32825, June 23, 1995; 60 FR 47692, Sept. 14, 1995; 61 FR 30404, June 14, 1996]

**§ 240.24b-3 Information filed by issuers and others under sections 12, 13, 14, and 16.**

(a) Except as otherwise provided in this section and in § 240.17a-6, each exchange shall keep available to the public under reasonable regulations as to the manner of inspection, during reasonable office hours, all information regarding a security registered on such exchange which is filed with it pursuant to section 12, 13, 14, or 16, or any rules or regulations thereunder. This requirement shall not apply to any information to the disclosure of which objection has been filed pursuant to § 240.24b-2, which objection shall not